

CHAPTER 5

SBP ANNUITY AMOUNT AND OFFSETS

SECTION A--ANNUITY AMOUNT

90501. General

a. SBP, as originally enacted, provided a monthly annuity of 55 percent of the annuity base amount, cost-of-living adjusted, to the eligible spouse or children. The monthly annuity for a natural person with an insurable interest was 55 percent of the amount of the gross retired pay after cost of participation is subtracted. The annuity payable to a spouse was subject to social security offset when the spouse reached age 62.

b. If the former spouse election was effective before 1 Mar 1986, annuity is provided under the insurable interest category. The annuity for a former spouse election effective 1 Mar 1986, or later (or where coverage was changed to spouse category with former spouse's concurrence) is provided under the spouse category.

c. Effective 1 Mar 1986, under Public Law 99-145, Section 711, there is a two-tier annuity benefit system for spouse and former spouse (spouse category) beneficiaries. The social security offset system was eliminated. Effective 1 Mar 1986, if the spouse, former spouse (spouse category), annuitant is under age 62 when becoming entitled to the annuity, the monthly annuity is 55 percent of the base amount, as adjusted under Title 10, U.S.C., section 1401a. If the beneficiary is age 62 or older when becoming entitled to the annuity, the monthly annuity is 35 percent of the base amount, as adjusted under Title 10, U.S.C., section 1401a. Where the annuitant reaches age 62 after becoming entitled to the annuity, the amount of the annuity is reduced to 35 percent of the base amount, as adjusted under Title 10, U.S.C., section 1401a, on the first day of the month after the annuitant reaches age 62. The annuity entitlement for a natural person with an insurable interest or former spouse (insurable interest category) remains unchanged.

(1) The eligible spouse or former spouse annuitant on 1 Oct 1985 will receive 55 percent of the base amount, as adjusted under Title 10, U.S.C., section 1401a, less social security offset or 35 percent of the base amount, as adjusted under Title 10, U.S.C., section 1401a, whichever is greater. The greater amount becomes payable 1 Mar 1986 or effective on the first day of the month after the annuitant reaches age 62, whichever is later. There is no subsequent comparison.

(2) The eligible spouse or former spouse beneficial of a member on 1 Oct 1985 who:

(a) Is a plan participant,

(b) Is entitled to retired pay,

(c) Is qualified for that pay except that member has not applied for or been granted that pay, or

(d) Would be eligible for retired pay under Title 10, U.S.C., Chapter 67, but for the fact that member is under age 60, may receive the greater of the two annuity amounts described in (1) above. The greater annuity amount becomes payable the first month the annuitant would otherwise be entitled to the annuity of 35 percent of the base amount. There is no subsequent comparison.

d. Effective 1 Apr 1992, a member may provide the spouse or former spouse annuitant with a Supplemental SBP (SSBP) annuity. The SSBP is an additional 5, 10, 15, or 20 percent of the annuity base amount as elected by the member and becomes payable when the annuitant reaches age 62. The SSBP is increased by cost-of-living adjustments similar to SBP.

90502. Eligible Annuitants and Annuity Amounts

Monthly annuities to which a survivor becomes entitled on or after 1 Oct 1983, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. Annuities to which survivors were entitled on 30 Sep 1983, shall be rounded when there is an adjustment under Title 10, U.S.C., section 1401a; then, and with each subsequent adjustment, the amount as adjusted, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. All subsequent adjustments shall be based on the rounded amount. SSPB annuities, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.

a. **Spouse or Former Spouse (Spouse Category) Only.** See table 9-5-1. The SBP annuity for a spouse or former spouse is reduced by any Dependency and Indemnity Compensation (DIC), if the annuity is payable on behalf of the same member. SSBP annuity is not reduced by DIC.

b. **Children Only.** If there is more than one eligible child, the annuity is paid in equal shares. The annuity for children is not subject to DIC offset.

c. Spouse and Child or Former Spouse and Child. The annuity is paid to the spouse or former spouse, as long as eligibility exists. If the surviving spouse or former spouse loses eligibility due to death or remarriage before age 55 (age 60, if remarried before 14 Nov 1986), the annuity is paid to the child annuitants. An election for former spouse and child includes the children that resulted from the member-former spouse marriage. The annuity amount for the spouse or former spouse is shown on table 9-5-1. The annuity amount for children is the same as for children only in b above. If member elects coverage for the spouse and children and the spouse is not eligible under Title 10, U.S.C., section 1447(3)(a), the spouse qualifies as the eligible annuitant on the birthdate of a posthumous child.

d. Former Spouse (Insurable Interest Category) or Natural Person With an Insurable Interest. The annuity is payable only to the former spouse or natural person with an insurable interest as designated by or on behalf of the member. The benefits may not be transferred to another person. The annuity amount is 55 percent of the member's gross retired pay less cost, at the time of member's death. The annuity is not reduced by DIC.

90503. Payment of Annuity

a. The SBP annuity is paid monthly to the eligible annuitant. The SBP payment is effective the first day after the death of the member unless death occurs on the 30th day of a 31-day month. In that case, the annuity starts on the first day of the next month. If a member elected coverage for a former spouse between 8 Sep 1982 and 31 Jan 1983, and died before 1 Feb 1983, the annuity begins 1 Feb 1983. Annuity payments end effective the last day of the month before the month in which the annuitant becomes ineligible.

(1) An annuity for a minor child is paid to the legal guardian, or, if there is no legal guardian, to the natural parent who has care, custody, and control of the child as the custodian, or to a representative payee of the child. An annuity may be paid directly to the child when the child is considered to be of majority age under the law in the state of residence. The child is then considered an adult for annuity purposes and a custodian or legal fiduciary is not required. See appendix 8 for age of majority by state.

(2) When there are delinquent cost charges, no annuity may be paid until such charges, with interest (6 percent compounded annually) have been recovered.

(3) Debts of a deceased member other than for delinquent costs are not the responsibility of the annuitant and may not be offset involuntarily against the annuity.

(4) The annuity is neither assignable nor subject to execution, levy, attachment, or garnishment (except for alimony or child support).

(5) The annuity may be paid to a trustee in bankruptcy pursuant to the order of a bankruptcy court in a proceeding under chapter 13 of the bankruptcy code since such proceeding is voluntary.

(6) An annuity may be paid to a third party on behalf of an incapacitated annuitant only if the third party has been appointed as guardian, custodian, or other fiduciary pursuant to a state court order or has been designated a representative payee under paragraph 90503c below. Otherwise, the annuity may only be paid to the annuitant unless the annuitant has been determined to be incompetent of managing his or her own affairs by a state court, physician or psychologist. If the annuity cannot be paid directly to the annuitant or to a third party, amounts will remain unpaid and credited on account until the annuitant is determined to be competent or until a third party has been properly appointed to receive the annuity on behalf of the annuitant.

(7) An eligible survivor who is physically or mentally incapacitated (but who has not been determined to be mentally incompetent by a state court, physician, or psychologist) may accept assistance from a person holding a power of attorney in completing (including the signature element) and filing the annuity application form. Benefit payments must be made payable thereunder directly to the annuitant.

(8) If the Secretary concerned makes a determination that a participating member is presumed dead, the annuity accrues from the first day after retired or retainer pay was suspended or would have been suspended had the member been in receipt of pay on the basis that the member is missing.

b. The SSBP annuity begins on the later of:

(1) The day on which SBP annuity becomes payable to the spouse or former spouse beneficiary if age 62 or older; or

(2) The first day of the month after the month in which the spouse or former spouse beneficiary becomes age 62.

The SSBP annuity is paid monthly. The SSBP terminates effective the first day of the month in

which the spouse or former spouse dies or becomes ineligible to receive an SBP annuity (except if ineligible for SBP annuity due to DIC award). SSBP coverage was not available until 1 Apr 1992 and the earliest effective date for SSBP annuity payment is 1 May 1992.

c. The SBP annuity due a minor, mentally incompetent, or otherwise legally disabled person for whom a guardian or other fiduciary has not been appointed may be paid to a representative payee, who in the judgment of the Secretary concerned, is responsible for the care of the annuitant. This includes any SSBP payable to the spouse or former spouse annuitant. The representative payee is required to spend or invest the amount paid on behalf of the annuitant solely for the benefit of the annuitant. The representative payee must certify that SBP (and SSBP, if applicable) payments received on the annuitant's behalf are used for the annuitant's benefit.

(1) An annuitant is determined to be incompetent if the Secretary concerned receives an actual determination of incompetency made either by a state court, or by a physician or psychologist. A representative payee will not be established solely on the basis of a letter request from a third party that an annuitant is incapable of handling financial affairs. The annuitant will be notified of actions being taken to make a determination of incompetency and will be provided an opportunity to review the evidence being considered. The annuitant will also have the opportunity to submit additional evidence before a determination is made.

(2) If a court order provides for payment of a fee to the representative payee, or if the Secretary concerned determines that payment of a fee is necessary in order to obtain the fiduciary services of a representative payee, a monthly fee will be allowed. In such circumstances, a fee of 4 percent of the monthly SBP annuity will be allowed, unless a court order dictates a lesser fee. In the case of a spouse or former spouse annuitant, the fee will be no more than 4 percent of the adjusted annuity-gross annuity less any DIC or social security offset reduction. Any court order which provides for a fee in excess of 4 percent shall be limited to 4 percent. The representative payee will be notified of the fee percentage allowed. The fee is not a separate payment to be mailed to the representative payee, but can be withheld by the representative payee from the monthly annuity payment. The fee is part of the periodic financial accounting by the representative payee.

(3) In cases where it appears necessary to protect the annuitant, the Secretary concerned may require the payee to provide a surety bond in an amount sufficient to protect the interests of the annuitant. The representative payee may pay for such bond(s) out of the SBP annuity. This is part of the periodic financial accounting by the representative payee. The Secretary concerned will determine the amount necessary in surety bond(s) based on the amount of the SBP annuity payable. A surety bond ordinarily will not be required if the representative payee is a close family member or a government or financial institution.

(4) The representative payee shall be required to maintain and, upon request by the Secretary concerned, provide a periodic accounting of expenditures and investments of amounts paid to the payee. If the representative payee is a close family member or a government or financial institution, a periodic accounting will not be required. In situations where a periodic accounting is required, it will ordinarily be submitted annually, unless the Secretary concerned determines that a more frequent submission is required.

(a) Final financial reporting will be required upon: the loss of a beneficiary's eligibility; a change of representative payee; or the determination later that an annuitant is competent to manage financial affairs.

(b) Major expenditures-those in excess of \$1,000 or one year's annuity, whichever is less-from the representative payee's bank account for the annuitant require prior written approval by the Secretary concerned.

(c) If the Secretary concerned has evidence that suggests the annuity funds have been or are being misused by the representative payee, the annuity may be suspended. An investigation will be conducted to determine if a new representative payee should be appointed or if payments maybe resumed to the representative payee.

(5) The selection of the representative payee will be made on the basis of the individual annuitant's circumstances. Generally, the order of preference for appointing a representative payee is:

- (a) spouse;
- (b) son or daughter or legally adopted son or daughter;
- (c) brother or sister;
- (d) parents;
- (e) head of Federal or state institution;
- (f) trustee of a private trust; or

(g) any other individual whose appointment appears to be in the best interest of the annuitant.

If more than one person or institution requests to be named the representative payee of the annuitant, the Secretary concerned shall make the determination as to which applicant is a more appropriate payee.

(6) In addition to SBP annuity payments (including payments to Minimum Income Widows under part 9, chapter 10), annuity payments under USCOA, RSFPP, and RC-SBP may also be made to a representative payee.

(7) The representative payee will be required to submit reports of existence and certificates of continued eligibility under part 9, chapter 9.

(8) An annuity paid to a person on behalf of an annuitant in accordance with these provisions discharges the obligation of the United States for payment to the annuitant of the amount of the annuity paid.

SECTION B OFFSETS TO THE ANNUITY

90511. When Required

The gross SBP annuity payable to a spouse or former spouse (spouse category) is offset by an award of DIC. The annuity maybe further reduced by social security offset. Social security offset was eliminated 1 Mar 1986. When the two-tier benefit system was established, however, a grandfather provision allowed certain annuitants to receive annuity computed at 55 percent of the annuity base amount less social security offset if it exceeded 35 percent of the base amount. Where both offsets apply, DIC is applied first.

*90512. Dependency and Indemnity Compensation (DIC) Offset

The Department of Veterans Affairs (VA) determines entitlement to and the amount of the DIC award. See appendix 12 for DIC rates. DIC rates were based on pay grade of member until 1 Jan 1993. Effective 1 Jan 1993, DIC is payable on a flat-rate, cost-of-living adjusted. The survivors of members who died before 1 Jan 1993 continue to receive DIC rates based on pay grade, if it exceeds the flat-rate. The award is effective the first day of the month of the retiree's death. DIC payment begins on the first day of the month after the effective date of the award. The SBP annuity is

reduced by DIC on the date DIC payment begins. The DIC offset equals the actual DIC payment the spouse or former spouse receives and it increases each time DIC rates increase. For offset purposes, the DIC entitlement does not include any amount attributable to child entitlement or aid and attendance. Payment of the SBP annuity is not withheld or delayed pending verification of the DIC award if the annuitant signs a statement authorizing the VA to collect any overpayment which results from the overlap of the DIC and SBP payments.

a. Cost Refund Due to DIC Award

(1) **SBP.** When the annuity is reduced due to DIC entitlement, a refund of SBP cost is made based on the difference between the costs actually incurred and the costs that would have been incurred in order to provide the annuity payable after the DIC reduction. The refund of costs is computed using the SBP annuity of 55 or 35 percent, whichever is applicable on the effective date of the DIC award. If the annuity is later reduced to 35 percent at age 62, no additional refund is due. If DIC entitlement is lost due to remarriage of the spouse or former spouse, SBP may be reinstated provided the spouse or former spouse repaid or is repaying in installments the refund of SBP contributions. When a refund is repaid and annuity begins, no additional refund is authorized if spouse or former spouse again becomes entitled to DIC.

(2) **SSBP.** SSBP costs are not refunded. At age 62 when the SBP annuity amount decreases to 35 percent, SSBP becomes payable at the 5, 10, 15, or 20 percent rate elected by the member whether or not the SBP annuity is or was exceeded by DIC.

b. DIC Equal To or Greater Than Annuity

The SBP annuity to the spouse or former spouse ends permanently except under the conditions shown in paragraph d below. The SSBP annuity is not affected. The SBP cost of coverage for spouse or former spouse only is refunded to the spouse or former spouse after any annuity debt is liquidated. If the annuitant dies before a refund of SBP costs is made, the refund shall be made to the annuitant's estate. If the spouse or former spouse becomes ineligible through death, the full annuity is paid to the eligible children in equal shares.

c. **Sample Computation of Refund.** See tables 9-5-2 and 9-5-3 for sample computation of refund. If DIC later exceeds the gross SBP annuity, the SBP annuity to the spouse or former spouse terminates.

d. Reinstatement of SBP Annuity Upon Loss of Entitlement to DIC Because of Remarriage After Age 55

(1) If the spouse or former spouse whose SBP annuity entitlement was adjusted under b or c above subsequently loses entitlement to DIC because of remarriage, and is 55 years of age (60 years of age if remarried before 14 Nov 1986) or more at the time of remarriage, the annuity is reinstated under conditions specified in (2) below as of the effective date of the loss of DIC entitlement. The annuity is adjusted to reflect all authorized cost-of-living adjustments. If the spouse or former spouse should again become eligible for DIC, a second refund is not authorized if the spouse or former spouse received any annuity payments.

(2) The widow(er) or former spouse who loses entitlement to DIC may repay the amount due in either a lump sum or in installments. If repayment is in installments, the installment payments will be deducted from the SBP annuity payable. The deductions will be 50 percent of the DIC amount or 50 percent of the gross annuity, whichever is less. When annuity is increased by COLADJ, the same percentage increase will be applied to the installment payment. No interest will accrue until the date of the first readjusted annuity payment. Thereafter, interest accumulates on any unrepaid balance at the rate of .534 of 1 percent monthly until the full amount has been repaid. Thus, the remaining debt on the date of each installment payment will be increased by a factor of 1.00534. This is based on the 12th root of 1 plus the current 6.6 percent annual interest rate used by the DoD Board of Actuaries to determine the retirement accrual cost.

e. Late Award of DIC. When claim for DIC is not filed within 1 year after the member's death and the spouse received an SBP annuity, no cost refund is made when DIC is later awarded. The effective date of the reduced annuity is the date of receipt of the claim by the Department of Veterans Affairs.

90513. Social Security Offset

a. Social security offset was eliminated 1 Mar 1986; however, certain spouse and former spouse annuitants age 62 or over are eligible under the social security offset system, if it provides a larger SBP annuity. Annuitants who are eligible under the grandfather provision include:

(1) The spouse annuitant of a member who on 1 Oct 1985 is:

(a) A participant in the plan;
(b) Is entitled to retired pay or is qualified for that pay except that member has not applied for or been granted that pay; or

(c) Would be eligible for retired pay under 10 U.S.C., Chapter 67, except member is under age 60.

(2) The former spouse annuitant of a member described in paragraph 90513a(l)(a) through (c) above whose divorce from the member became final on or after 30 Nov 1989.

b. Before 1 Mar 1986, spouse annuity was reduced by social security offset based on eligibility for or receipt of social security benefits based on member's active service after 31 Dec 1956. SBP annuity was reduced by social security offset based on entitlement to mother's, or father's, or widow(er)'s social security benefits. Benefits in the social security offset system are computed under PIA Table Method, a Decoupled (Indexing) Formula Method, or a Transitional Guarantee Method.

(1) Under the PIA Table Method, the social security benefit is based upon the primary insurance amount (PIA) which is determined from a schedule relating the member's average monthly earnings (AME) under social security covered employment to the PIA. See appendix 19 for this method which applies to members who attained age 62, became disabled or died before 1 Jan 1979. If a member in a missing-in-action status is later presumed dead, include in social security benefits only earnings through the year in which the member entered the "missing" status.

(2) Under the Decoupled Formula Method (also called the "Indexing Method"), the social security benefit is computed by indexing the member worker's past earnings, which take into account the change in general wage levels that has occurred during the worker's years of employment, in proportion to the increase in average wages of all workers. Use this method to determine the worker's "average indexed monthly earnings" (AIME). Compute the PIA using portions of the AIME which are multiplied by constant percentages called "bend points" depending on the year of eligibility. This method, which appears in appendix 20, applies to members who reach age 62, become disabled or die after 1978. See paragraph (3) for the exception. If the member was in a missing-in-action status and later presumed dead, include in social security benefits only earnings through the year in which the member entered the missing status.

(3) Transitional Guarantee Method is the PIA from either the PIA Table Method or the Decoupled Formula Method. This method applies to a member who became age 62 after 1 Jan 1979, and who dies after reaching age 62 but before 31 Dec 1983. Earnings for a member who was in a missing-in-action status are credited as stated above.

c. A member with SSBP waives the right to have SBP annuity computed under the social security offset method. Such waiver is irrevocable.

***90514. Offset to SBP Annuity Because of Social Security Benefits**

The offset is based on the member's active military service after 31 Dec 1956. The reduction factor applies against the total military PIA calculated to member's age 65, unless the annuitant demonstrates that the benefit was reduced because the member was receiving a nondisability social security retirement benefit before age 65. Establish and continue the offset unless evidence is received that makes it improper. The burden is on the survivor to furnish documentation for this purpose. In applying this offset, the annuitant is considered entitled to social security benefits even if he or she has not applied for them. The annuitant is also considered entitled, if otherwise eligible, but instead has elected to receive benefits based on his or her personal employment or the employment of some third person.

Note: SBP annuity is not reduced by social security offset if the Social Security Administration determines that the annuitant is ineligible for benefits.

a. **Denial of Benefits.** When establishing a social security offset, advise the annuitant to submit a copy of any letter denying social security benefits. Reasons for denial of benefits include, but are not limited to the following: insufficient credits for a member to qualify for a benefit, administrative denial, and receipt of a governmental pension.

b. Reduction of Benefits

(1) A working widow(er)'s social security offset is reduced to the same extent that the full social security benefit is reduced. For example, if a widow loses 80 percent of the full social security benefit as a result of wages or salaries earned and receives only 20 percent of the benefit, the offset is computed by taking 20 percent of the member's benefit based on military earnings times the widow(er)'s offset factor. The social security offset is adjusted on verification of the

social security reduction shown on the Annual Report of Earnings letter.

(2) If social security payments are reduced because of employment of the widow(er) at any age with only one dependent child under age 16 (or disabled before age 22, while unmarried), the amount of the offset is the ratio of the total mother's benefit after the Social Security Administration reduction to the total benefit before the reduction times that portion of the benefit attributable solely to the military service or

$$\text{Offset} = \frac{\text{Total mother's benefit after reduction}}{\text{Total mother's benefit before reduction}} \times \text{Mothers benefit attributable to military service}$$

The offset is recomputed on receipt of the Annual report of Earnings letter furnished by the Social Security Administration. Significant changes in earnings during a calendar year may be reported to adjust benefits and preclude large overpayments at the end of a calendar year.

(3) Offset may be reduced because of work even though no claim has been made for social security benefits.

*(4) If the deceased member drew nondisability social security retirement (old-age) benefits before age 65, step 16 of appendices 19 and 20 provides for a reduction in the social security offset calculation. The social security offset calculation is not adjusted if the annuitant drew nondisability benefits before age 62.

c. Period of Offset

(1) No dependent children. Social security offset begins the first day of the month after the widow, widower, or former spouse reaches age 62 or when the member dies if the annuitant is age 62 or older. The offset percentage factor is computed under paragraph 90515a.

(2) One dependent child.

90515. Offset Factors

a. **Widow, Widower, or Surviving Divorced Spouse's Benefit.** The offset percentage factor is permanently fixed based on the survivor's age on the date the annuity starts. If the survivor's age is:

(1) Under 62, the offset factor is 82.9 percent of military PIA at age 62 when the offset becomes effective.

(2) Between 62 and 65, the offset factor is 100 percent of the military PIA less 19/40 of 1

percent for each month the widow or widower is under 65. See appendix 15 for table of computations.

(3) 65 or over, the offset factor is 100 percent of military PIA.

NOTE: Fractions of a month are not considered in computing the factor ages 62-65; 6 months or over do not constitute an additional year. Before October 1977, the offset percentage for the widow or widower age 62 or over was computed at 82-1/2 percent of the PIA.

b. Mother's Benefit. The offset is 75 percent of the PIA based solely on the member's active service. The offset is reduced by any amount not payable by SSA because of the widow's earnings.

90516. Computation of Social Security Offset

See appendix 19 for computation of social security offset for members whose eligibility year is before 1979. See appendix 20 for computation of social security offset for members whose eligibility year is after 1978. The amount of the social security offset effective 1 Dec 1980, may not exceed 40 percent of the annuity payable to the surviving spouse or former spouse.

90517. Computing Social Security Offset for 10 U.S.C. 1331 Retirees

The members military earnings are computed on periods of active duty/active duty for training after 31 Dec 1956. Free wage credits are awarded assuming active duty tours were performed during July, unless information is provided showing actual active duty tours.

a. The member is credited with free wage credits of \$300 in any calendar quarter from 1 Jan 1957 through 31 Dec 1977 in which active duty/active duty for training wages were paid.

b. The member is credited with free wage credits in \$100 increments for each \$300 of active duty or active duty for training wages paid after 31 Dec 1977.

c. Any period of less than 30 continuous days of service performed on or after 1 Dec 1980, for which the member is entitled to a Federal tax refund of the social security tax paid on the income from that service is excluded from the computation for the social security offset.

d. Appendices 19 and 20 are applicable for computation of social security offset for retirees under Title 10, U.S.C., section 1331.

TABLE 9-5-1

ANNUITY FOR WIDOW OR WIDOWER OR FORMER SPOUSE (SPOUSE CATEGORY)

R U L E	A	B	C	D
	If member died or was declared dead after 20 Sep 1972 and was (note 8)	and the annuitant was	and the annuity is (note 6)	offset by (note 9)
1	in a retired status	married to member on date of election (pre-21 Sep 1972 retiree) or on date of retirement and married to member at time of member's death (note 1)	35 or 35 percent of base amount of coverage on date of member's death (note 2)	Dependency and Indemnity Compensation (DIC); Social Security offset.
2		married to member a minimum of 1 year at time of member's death if marriage occurred after 21 Sep 1973 (pre-21 Sep 1972 retiree) or on date of retirement (note 3)		
3		the parent of a "living issue" of the marriage which occurred after 21 Sep 1973 or date of retirement (note 4)		
4		the former spouse of a member when member became eligible to participate 8 Sep 1982 or later; or the former spouse that a member acquired after becoming eligible to participate and who had been married to member at least 1 year or was the parent of issue of that marriage (note 4)		
5	on active duty before 21 Sep 1972 and was entitled to retired or retainer pay but had not applied for or been granted such pay	married to member on member's date of death	55 percent of retired pay to which the member would have been entitled at date of death based on active service as adjusted from date of death through 30 Nov 1980 (note 7)	DIC, Social Security offset, RSFPP annuity.

TABLE 9-5-1. CONTINUED				
R U L E	A	B	C	D
	If member died or was declared dead after 20 Sep 1972 and was (note 8)	and the annuitant was	and the annuity is (note 6)	offset by (note 9)
6	on active duty 21 Sep 1972 or later but was qualified for retired pay but had not applied for or been granted such pay	married to member on member's date of death or the former spouse of a member when member became eligible to participate 8 Sep 1982 or later; the former spouse member acquired after becoming eligible to participate and who was married to member at least 1 year or the parent of issue of that marriage; or the former spouse which member was required under a court order or spousal agreement to provide an annuity to upon becoming eligible to participate (note 10)	35 or 55 percent of retired pay to which member would have been entitled based on years of service at time of death (note 2)	DIC, Social Security offset.
7	on active duty 21 Sep 1972 or later, completing 20 years of active service but before member is able to retire as a commissioned officer because member has less than 10 years' active commissioned service		35 or 55 percent of retired pay to which member would have been entitled based on the basic pay rate at time of death for highest grade other than a commissioned officer grade in which member served on active duty satisfactorily as determined by the Secretary concerned (note 2)	
8	on active duty after having been retired but immediately recalled to active duty		35 or 55 percent of retired pay entitlement on date of death which pay may be computed under 10 U.S.C. 1402(a) or (e), whichever is higher and which previous election has no effect (note 2)	
9	on active duty after having retired and recalled to active duty for more than 30 days after break in service		35 or 55 percent of retired pay at time of death. Pay may be computed by whichever of two methods gives the higher rate of annuity: (a) as if member had never retired and computed as if rule 5, or (b) pay at the time of retirement, with applicable adjustments for SBP coverage as elected by the member (note 2)	

TABLE 9-5-1. CONTINUED				
R U L E	A	B	C	D
	If member died or was declared dead after 20 Sep 1972 and was (note 8)	and the annuitant was	and the annuity is (note 6)	offset by (note 9)
10	eligible to provide Reserve-component annuity and dies: (a) before being notified of retirement eligibility under 10 U.S.C., Chapter 67, or (b) during the 90-day period beginning when member receives notification of retirement eligibility, if member had not made an election	married to member on member's date of death or the former spouse of a member when member became eligible to participate 8 Sep 1982 or later; the former spouse member acquired after becoming eligible to participate and who was married to member at least 1 year or the parent of issue of that marriage; or the former spouse which member was required under a court order or spousal agreement to provide an annuity to upon becoming eligible to participate (note 10)	35 or 55 percent of retired pay to which member would have been entitled based on years of active service when the member died and computed on basic pay rates in effect on the effective date of the annuity (note 2)	DIC, Social Security offset.
11	being carried in a "missing in action" status at the time determination of death was made by the Secretary concerned, provided member met retirement eligibility at time of declaration of death	married to member on date Secretary concerned makes the determination of death	(See rule 5.)	DIC and Social Security entitlement.
12	retired from both military and civil service but did not waive military service for civil service purposes	(See rules 1, 2, or 3.)	(See rule 1.)	
13	retired from both military and civil service, waived military retired pay for civil service purposes, but did not elect survivor coverage at any level under the civil service retirement			

NOTES:

1. For a member married to the same spouse at time of retirement and date of death, the statute does not require that an intervening divorce be followed by 1 year of remarriage immediately before date of death.

2. a. If the beneficiary is under age 62 when becoming entitled to the annuity, the monthly annuity shall be 55 percent of the annuity base amount (as adjusted under 10 U.S.C. 1401a). The SBP annuity shall be reduced to 35 percent on the first day of the month after the beneficiary reaches age 62. However, if the beneficiary is eligible to have SBP annuity computed under the old social security offset method 10 U.S.C. 1451 (e), the more favorable computation is payable. If a member has SSBP coverage, the member was required to waive any annuity computation under the social security offset method and the SSBP annuity of 5, 10, 15, or 20 percent of the annuity base amount, as elected by the member and adjusted under 10 U.S.C. 1401a, begins on the first day of the month after the beneficiary becomes age 62.

b. If the beneficiary 62 or older when becoming entitled to the annuity, the monthly SBP annuity shall be 35 percent of the annuity base amount (as adjusted under 10 U.S.C. 1401a). However, if the beneficiary is eligible to have SBP annuity computed under the old social security offset method 10 U.S.C. 1451 (e), the more favorable computation is payable. If a member has SSBP coverage, the member was required to waive any annuity computation under the social security offset method and the SSBP annuity of 5, 10, 15, or 20 percent of the annuity base amount, as elected by the member and adjusted under 10 U.S.C. 1401a.

c. Under the social security offset method, 10 U.S.C. 1451(e), a former spouse was entitled to 55 percent less no social security offset, if the divorce from the member became final before 30 Nov 1989, (date of P.L. 101-189 technical amendment to 10 U.S.C. 1451(e)).

3. Minimum requirement for a marriage is 1 year. A widow(er) previously ineligible to receive an annuity because of a 2-year requirement may now qualify for the annuity. No monetary adjustment is made for persons before 1 Oct 1976,

4. "Living issue" means the "issue by that marriage" or a child of such marriage who dies shortly after birth (such child's birth is the criterion, not the duration of the child's life).

5. If member is required under a court order or spousal agreement to provide an annuity to a former spouse upon becoming eligible to participate in the Plan or if a member has made an election to provide former spouse annuity, the Secretary concerned may not pay the annuity to the surviving spouse.

6. All SBP monthly annuities to which a survivor becomes entitled on or after 1 Oct 1983, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. Annuities to which survivors were entitled on 30 Sep 1983, shall not be rounded until there is an adjustment under 10 U.S.C. 1401a; then the amount, as adjusted, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. All subsequent adjustments shall be based on the rounded amount. SSBP annuities, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.

7. If the "forgotten widow" is entitled to an SBP or RCSBP annuity resulting from a subsequent marriage to a member, the individual may not receive the two annuities, but must elect in writing which to receive. The annuity for a "forgotten widow" is effective 1 Dec 1980.

8. Under 10 U.S.C. 1448(d), annuity is payable to the surviving spouse and dependent children of a person who dies on active duty after 20 Sep 1972, and the former spouse of a person who dies after 7 Sep 1982. Under 10 U.S.C. 1448(f), annuity is payable to the surviving spouse and dependent children of a person who dies after 30 Sep 1978, and the former spouse of a person who dies after 7 Sep 1982.

9. If annuity is computed as 35 percent of the annuity base amount for an annuitant age 62 or older, the social security offset reduction under 10 U.S.C. 1451(e) does not apply.

10. Former spouse annuity applicable only where member dies after 7 Sep 1982.

TABLE 9-5-2**SAMPLE COMPUTATION OF SBP COST REFUND EFFECTIVE THROUGH 28 FEB 1981 (Note 1)**

Election or Change Effective (note 1)	Period Thru (note 2)	Base Amount	Annuity	Simulated DIC Award During This Period Would Have Been	Difference	New Base Amount (note 4)	Original Cost for Spouse (note 3)	Adjusted Cost	Difference in Cost	Refund Due Widow/er (note 5)
1 Oct 72	30 Jun 73	\$1,000.00	\$550.00	\$337.00	\$213.00	\$387.27	\$77.50	\$16.23	\$61.27	\$551.43
1 Jul 73	31 Dec 73	1,061.00	583.55	337.00	246.55	448.27	83.60	22.33	61.27	367.62
1 Jan 74	30 Apr 74	1,119.36	615.65	337.00	278.65	506.64	89.44	28.16	61.28	245.12
1 May 74	30 Jun 74	1,119.36	615.65	394.00	221.65	403.00	89.44	17.80	71.64	143.28
1 Jul 74	31 Dec 74	1,191.00	655.05	394.00	261.05	474.64	96.60	24.96	71.64	429.84
1 Jan 75	31 Jul 75	1,276.74	702.21	394.00	308.21	560.38	105.17	33.54	71.63	501.41
1 Aug 75	28 Feb 76	1,341.85	738.02	441.00	297.02	540.04	111.69	31.50	80.19	561.33
1 Mar 76	30 Sep 76	1,414.31	777.87	441.00	336.87	612.49	118.93	38.75	80.18	561.26
1 Oct 76	28 Feb 77	1,414.31	777.87	476.00	301.87	548.85	118.93	32.39	86.54	432.70
1 Mar 77	18 Apr 77	1,482.20	815.21	476.00	339.21	616.75	125.72	39.18	86.54	138.38

NOTES:

1. The DoD actuary's formula as approved by the SBP Board, was available for use beginning 1 Mar 1983. For example If the cost refund period extends from 1 Apr 1980 through 20 Sep 1983, the portion of cost refund for 1 Apr 1980 through 28 Feb 1981, is computed using table 9-5-2. The portion of the refund for 1 Mar 1981 through 30 Sep 1983, is computed on the DoD actuary's formula. See table 9-5-3.

2. Legend: Member a colonel, first election effective 1 Oct 1972

for spouse and children. Member died 18 Apr 1977. DIC awarded 19 Apr 1977.

3. Refund of cost is made for cost of coverage for spouse only.

4. New base amount is computed by dividing the difference of the annuity and DIC award by 56 percent.

5. Interest charges due to delinquent cost should not be refunded to annuitant.

TABLE 9-5-3

REFUND OF MONTHLY PREMIUM FOR SBP EFFECTIVE 1 MAR 1983 (see note)

All figures should be in month that premium calculation is desired. A change would occur in any month the base amount, DIC, or cost changes. Additionally, the cost formula for spouse and former spouse changed effective 1 Mar 1990.

1. Month of premium calculation =
2. Actual SBP base amount =
3. Spouse annuity = (.35 or .55) times (2) =
4. DIC amount =
5. Revised spouse annuity = (3) minus (4) =
6. Revised spouse annuity = (5) divided by .35 (or .55) =

7. Calculate N.

For members with cost computed on the 6-1/2 percent flat-rate reduction formula, skip to (17).

- Step 1. Month of retirement =
- Step 2. Point in time premium calculation is desired =
- Step 3. List all applicable cost of living increases which the member received between (or included in) the months listed in steps 1 and 2 as a factor of 1.xxx where xxx is the cost of living increase. For example, the 4.4 percent cost of living increase of March 1981 would be listed as a factor of 1.044.

FACTORSFULLSPECIAL

Beginning of SBP	1.0	
March 1981	1.044	
March 1982	1.087	
April 1984	1.039	1.033
December 1984	1.035	
December 1986	1.013	
December 1987	1.042	
December 1988	1.04	
December 1989	1.047	
December 1990	1.054	
December 1991	1.037	
December 1992	1.03	
★December 1993	1.026	

- Step 4. Multiply all factors in step 3 together. If no factors appear in step 3, use 1.0 here. =

TABLE 9-5-3. CONTINUED

Step 5.	$N = \text{Step 4 times } 300 \text{ (or initial threshold amount if it was not \$300)}$	=
8.	Revised base amount minus $N = (6) - (7)$ (if less than zero, use zero)	=
9.	.025 times the less of (6) or (7)	=
10.	.1 times (8)	=
11.	Revised premium = (9) + (10) If actual premium for the month known, skip to (15)	=
12.	Base minus $N = (2) - (7)$	=
13.	.1 times (12)	=
14.	.025 times (7)	=
15.	Actual premium = (13) plus (14)	=
16.	<u>Monthly refund</u> = (15) - (11)	
17.	If member had cost computed using the 6-1/2 percent flat-rate reduction formula, the difference in cost due the annuitant is: .065 times (2) less .065 times (6)	=

NOTE: Table 9-5-3 is effective 1 Mar 1983, for refund periods which include 1 Mar 1981 or later.